

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEREMY PLACE,

Plaintiff,

vs.

RUSSELL TECHNOLOGIES, INC., et al.,

Defendants.

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Case No. 4: 17 CV 399 RWS

MEMORANDUM AND ORDER

Having reviewed defendants' motion to dismiss in light of the relevant standards¹, it will be denied as plaintiff has pleaded sufficient allegations which, if proven, would entitle him and other members of a purported collective action to relief. Accordingly,

IT IS HEREBY ORDERED that defendants' motion to dismiss [23] is denied.

This case will be set for a Rule 16 conference by separate Order.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 13th day of April, 2017.

¹ The purpose of a motion to dismiss under Federal Rule of Civil Procedure 16(b)(6) is to test the legal sufficiency of the complaint. When considering a 12(b)(6) motion, the court assumes the factual allegations of a complaint are true and construes them in favor of the plaintiff. *Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989). To survive dismissal, a complaint must contain "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); accord *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). The issue in considering such a motion is not whether the plaintiff will ultimately prevail, but whether the plaintiff is entitled to present evidence in support of the claim. *Neitzke*, 490 U.S. at 327.